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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/666,398 | 09/20/2000 | Paul A. P. Kaufholz | PHN 17-643 | 8968 |

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

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| EXAMINER |
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STORM, DONALD L

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| ART UNIT | PAPER NUMBER |
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2654

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/666,398

Applicant(s)

KAUFHOLZ, PAUL A. P.

Examiner

Donald L. Storm

Art Unit

2654

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

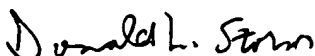
Claim(s) objected to: none.

Claim(s) rejected: 1-4 and 6-11.

Claim(s) withdrawn from consideration: none.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).
10. ☒ Other: See Continuation Sheet


RICHEMOND DORVIL
SUPERVISORY PATENT EXAMINER



Continuation of 2. NOTE:

Patentability of claim 1 in view of combinations of references already of record must be reconsidered, because the new claim limitation of "each respective audio input being arranged within a proximity of a respective audio source" presents new issues for the claim. Additional search may be required. Reconsideration is required of whether all dependent claims now distinctly claim the invention in light of the new claim limitation. For example, claim 4 would appear to require transmission over a network from an audio source to an audio input that is near to the source.

The new language in the proposed amendments must also be further examined in light of the specification to determine if more issues that are new are presented. The amendment does not place the application in better form for appeal at least because the proposed amendment presents issues in language and combinations that were not previously addressed. Reconsideration is required of whether (claims 1, 7, 10) "a plurality of different background noises," (claims 1, 7, 10) "two additional audio inputs receiving, respectively, independent audio source signals," and (claim 10) "the audio source signals being arranged within a proximity . . . of the microphone" establish limitations that were not previously examined in their proposed contexts with other claim limitations.

Continuation of 5. does NOT place the application in condition for allowance because:

The arguments presented against the prima facie case of unpatentability are not persuasive. The Applicant contends that Linder does not describe or suggest every aspect of claims 1 and 11 and that Eriksson and Linder does not describe and make obvious every aspect of claims 1, 7 because:

- a. Linder has only one noise pickup. This argument is not persuasive because Linder's [at page 13, lines 7-8] duplicate apparatus would have a duplicate noise pickup; please see the prior Office action numbered section 4.
- b. Linder does not suggest arranging two noise pickups respectively with each of two noise sources. This argument is not persuasive because Linder [at page 13, lines 7-11] describes other noise generators used with duplicates of the apparatus; please see the prior Office action numbered section 4.

Continuation of 10. Other:

In the proposed amendment to claim 1, is a word or phrase missing from the added phrase "and each of the at least two additional respective audio inputs"? The Applicant is advised that should proposed claim 1 receive further examination, the Examiner intends to consider the cancellation module as follows: ☐canceling the at least two audio source signals, each received respectively by the at least two additional audio inputs, from the audio signal that is received by the microphone☐. The corresponding limitations in claim 7 and claim 11 will be considered similarly.